

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Kristen Lanham-Hostetter	Team: Team # 1	CCRB Case #: 201112211	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 09/14/2011 6:30 AM	Location of Incident: § 87(2)(b)	Precinct: 73	18 Mo. SOL 3/14/2013	EO SOL 3/14/2013	
Date/Time CV Reported Mon, 09/19/2011 9:00 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 09/22/2011 10:21 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. CPT Joseph Gulotta	00000	900369	073 PCT

Officer(s)	Allegation	Investigator Recommendation
A.CPT Joseph Gulotta	Abuse: Captain Joseph Gulotta authorized the entry and search of § 87(2)(b) in Brooklyn.	§ 87(2)(b)
B. Officers	Force: Officers pointed their guns at § 87(2)(b)	§ 87(2)(b)

Case Summary

§ 87(2)(b) filed this complaint with the Internal Affairs Bureau on September 19, 2011. Her complaint was received at the CCRB on September 22, 2011, under log number 11-42718.

On September 14, 2011, at approximately 6:30am, officers entered § 87(2)(b)'s apartment, at § 87(2)(b) § 87(2)(b) in Brooklyn. The following allegations stem from the incident:

- **Allegation A – Abuse: Captain Joseph Gulotta authorized the entry and search of § 87(2)(b) § 87(2)(b) in Brooklyn.**
- **Allegation B – Abuse: Officers pointed their guns at § 87(2)(b) § 87(2)(g)**
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

Results of Investigation

Civilian Statement

Complainant/Victim: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b).

§ 87(2)(b) provided a phone statement on September 23, 2011 (encl. 6a-b). Her statement was consistent with her intake statement with exceptions noted below. On Sept 14, 2011 at 6:30am, § 87(2)(b) and her children were inside her duplex apartment, § 87(2)(b) § 87(2)(b) in Brooklyn. § 87(2)(b) was downstairs with her § 87(2)(b)-old daughter § 87(2)(b) and her § 87(2)(b)-old son § 87(2)(b). Her § 87(2)(b)-old son, § 87(2)(b) was in a bathroom upstairs, brushing his teeth. § 87(2)(b) heard a banging sound and started heading upstairs to determine what caused the sound. Her § 87(2)(b)-old son screamed and § 87(2)(b) heard someone say “get on the ground.” At first, she believed that her home was being robbed, and she continued going up the stairs toward her son. At some point, she could see that the people in her home were police officers, based on their jackets, which said “police,” or “NYPD.” The officers had their guns pointed towards § 87(2)(b) and gestured for her to approach them, which she did. § 87(2)(b) could not see their faces well, as it was still dark and the officers had their flashlights shining on her.

They told her to sit down, and she asked if § 87(2)(b) could sit with her so he would not be afraid. They said that was okay, so they both sat down. More and more officers entered and went all over the house. § 87(2)(b) was asked how many bedrooms there were in the house and how many people were there. She told them that there were five bedrooms and that it was just her kids downstairs. § 87(2)(b) was not sure how many officers were present, and estimated that it was approximately twenty. She remembered that they were mostly male, and were white, Hispanic, and black. The one female officer that she remembered seeing was short and Hispanic. An officer who § 87(2)(b) saw wearing a shield identified himself as Captain Gulotta, and stated that he and the other officers were from the 73rd Precinct. Captain Gulotta entered her apartment after most of the other officers.

§ 87(2)(b) asked what was going on, and various officers told her to relax for a few minutes, which she did. After a few minutes some of the officers started leaving. § 87(2)(b)

asked again what happened, and officers told her to relax, and said that they would tell her everything she needed to know in a few minutes.

Then § 87(2)(b) saw § 87(2)(b) and § 87(2)(b) being brought upstairs in handcuffs. She asked why they were in handcuffs and asked if they were the people the officers were looking for. Officers told § 87(2)(b) to relax again, and told her that she would find out in a few minutes. She said she would not relax because her kids were handcuffed. She told the officers that if her children were not the people the officers were looking for, then they needed to remove the handcuffs immediately. Officers continued to tell § 87(2)(b) to relax, and she continued to insist that they remove the handcuffs from her children.

§ 87(2)(b) grabbed her house phone, called 911 and stated her address and told the operator that she needed some assistance. One of the officers took the phone out of hands and told the operator that they were the police and that they were already there. He then unplugged the phone from the wall and threw the phone on the sofa.

§ 87(2)(b) informed the officers that she would not cooperate until the handcuffs were removed from her children. The handcuffs were eventually removed. § 87(2)(b) had a laceration on his wrist from the handcuffs. Officers asked him if he would like to be treated at a hospital for it, and he stated that he did not.

Officers brought § 87(2)(b) to her living room and told her they were looking for “§ 87(2)(b).” They stated that § 87(2)(b)’s address was the one they had for § 87(2)(b). § 87(2)(b) explained that she moved with her kids to that apartment on February 28th, 2011, and did not know anyone named § 87(2)(b). She stated that the apartment had been vacant for a while before she moved in, and that she did not know long it had been so. Another officer stated that they did surveillance in the area and that someone was spotted selling drugs on the porch. § 87(2)(b) told them that the porch belonged to another house and that she could not control what happened there. She reiterated that she moved there in February and asked when they saw the person they were referring to. An officer replied that he saw § 87(2)(b) in July. § 87(2)(b) told the officers that they should have arrested § 87(2)(b) in July. Then officers asked about someone named “§ 87(2)(b).” § 87(2)(b) told the officers that she did not know anyone by that name. She did not know if that was another name belonging to § 87(2)(b) a nickname, or the name of someone else entirely. She told them that junk mail arrived at her apartment for people with the last names “§ 87(2)(b)” and “§ 87(2)(b).” § 87(2)(b) showed the officers mail that she recently received for both individuals, and stated that she did not know how long ago either person had lived there before she moved in. She also showed the officers some of her own mail, which had the yellow forwarding label to her new apartment from the post office. An officer reiterated that they saw § 87(2)(b) going in and coming out of her apartment in July. § 87(2)(b) told the officer that was a lie, as she did not know anyone by that name, and it was only her and her children living there.

When § 87(2)(b) went back upstairs, she saw an officer looking through a cell phone. One officer asked if another officer thought the photo resembled “him,” but did not specify the identity of the person they were talking about. The officer replied that he did not know, and that “he” looked like he lost some weight, but that it could be “him.”

About this time, the father of two of § 87(2)(b)’s infants came to pick them up, as it was time for § 87(2)(b) to go to work. The officers asked for his ID when he entered. § 87(2)(b) told her kids that they did not have to go to school that day, and the rest of the officers left.

At some point, § 87(2)(b) saw that officers had removed the contents of dresser drawers and closets within the apartment, and placed the contents on the floor. § 87(2)(b) was not present when this occurred.

Later that day, § 87(2)(b) went to the 73rd Precinct stationhouse and asked to speak with Captain Gulotta. He came to speak with her and provided a document that stated that PO

Hatt was authorized to search § 87(2)(b) s § 87(2)(b) on a search warrant. § 87(2)(b) faxed this document to the investigator, (encl. 7a-b). She asked Captain Gulotta for more details, but he stated that it was confidential. In her intake statement, § 87(2)(b) stated that officers never showed her a warrant, but in her phone statement she clarified that she did not ask to see one until she went to the 73rd Precinct stationhouse.

Witnesses Not Interviewed

No witnesses were interviewed, as their testimony would not affect the disposition of the allegations.

Police Officers Not Interviewed

No officers were interviewed, as their testimony would not affect the disposition of the allegations.

NYPD Documents

Search Warrant

The search warrant for this case, § 87(2)(b) was requested by Officer Nicholas Hatt of the 73rd Precinct. The warrant, which was issued on § 87(2)(b), was obtained to search for and seize evidence of the possession of a firearm and evidence of a marijuana crime, including ammunition, loading devices, and evidence of ownership and use of the premises (encl. 7a-d).

Status of Civil Proceedings

- § 87(2)(b) filed a Notice of Claim with the City of New York on October 12, 2011, claiming that she and her children were unlawfully detained and that some were handcuffed with excessive force. She seeks unspecified damages as redress for assault, battery, deprivation of federal and state constitutional and civil rights, and negligence (encl. 10a-b).

§ 87(2)(b)

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Civilians CCRB History

- This is the first CCRB complaint filed by § 87(2)(b) (encl. 3a).

Subject Officer CCRB History

Captain Joseph Gulotta has been a member of the service for twenty years and has no substantiated CCRB allegations against him (encl. 2a).

Conclusion

Identification of Subject Officers

As § 87(2)(b) identified Captain Gulotta by name as being present, but she did not allege that he had his gun pointed, he is not specifically listed as a subject officer in the guns pointed allegation. However, Captain Gulotta was the senior most officer on the scene, the entry and search of § 87(2)(b)'s apartment is being pleaded against him.

Investigative Findings and Recommendations

Allegation A: Captain Joseph Gulotta authorized the entry and search of § 87(2)(b) in Brooklyn.

§ 87(2)(b) stated that at approximately 6:30am on September 14, 2011, officers entered her apartment and searched it. Police documentation shows that search warrant #§ 87(2)(b) was granted for that time and location, which allowed the officers to search the entirety of the apartment. § 87(2)(g).

Allegation B: Officers pointed their guns at § 87(2)(b)

§ 87(2)(b) alleged that officers pointed their guns at her when they entered her apartment. According to *P.D. V Gliner*, “The Department permits an officer broad discretion to display his weapon whenever he feels that his life or the life of another is endangered” (encl. 1a-d). When officers entered § 87(2)(b)'s apartment, they did not know who or what that would find, particularly given that a gun was specifically mentioned in the search warrant. The fact that the apartment was dark when they entered added to the intensity and uncertainty of the situation.

§ 87(2)(g)

Team: 1

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date